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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,808	12/08/2000	Danny Chin	DIVA/241	3084

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EXAMINER

NGUYEN, QUANG N

ART UNIT PAPER NUMBER

2141

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,808

Applicant(s)

CHIN ET AL.

Examiner

Quang N. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detail Action

1. This Office Action is in response to the application SN 09/733,808 filed on 12/08/2000. Claims 1-19 are presented for examination.

Claim Objections

2. Claim 4 is objected to because of the following informalities:

On line 28 of page 25, "... to said destination module, ..." should be "... to said destination server module, ...".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 recites the limitation "repeating steps (a) through (c)." in line 2 of page 26. There is insufficient antecedent basis for this limitation in the claim.

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5. **Claim 9 recites the limitation “said alternate extent” in line 20 of page 26. There is insufficient antecedent basis for this limitation in the claim.**

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. **Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Lumelsky et al. (US 6,377,996), herein after referred as Lumelsky.**

8. As to claim 1, Lumelsky teaches a method for migrating a user from a source server module (*primary server*) providing a content stream to said user to a destination server module (*auxiliary server*), comprising:

determining, for said content stream being provided to said user, a transitional extent defining an appropriate first extent to be provided to said user via a destination server module (*i.e., determining parameters on where, when and how to migrate a client across primary servers and/or auxiliary servers*) (C3:L57 – C4:L3 and C10: L33-48);

determining if said destination server module is capable of providing said transitional extent to said user within a first time period (*i.e., within a time out period*) (C10: L16-32 and C11: L53-59); and

causing said destination server module to provide said transitional extent and subsequent extents associated with said content stream to said user (C11: L7-29).

9. As to claim 2, Lumelsky teaches the method of claim 1, wherein said first time period comprises a transitional extent deadline determining the time at which said transitional extent must be retrieved from a storage device (*i.e., a transitional time out*) (C10: L55-63 and C11: L42-45).

10. As to claim 3, Lumelsky teaches the method of claim 1, wherein said second step of determining comprises the steps of:

communicating at least said transitional extent including a transitional extent deadline to said destination server module (C10: L33-48); and

evaluating a message received from said destination server module, said message comprising one of a rejection, an acceptance and a modified acceptance of a migration of said user to said destination server module (C10: L55-63).

11. As to claim 4, Lumelsky teaches the method of claim 3, wherein in the case of a rejection of the migration of said user to said destination server module, an alternate destination server module is selected (C11: L60-67).

12. As to claim 5, Lumelsky teaches the method of claim 3, wherein in the case of an acceptance message, said method further comprises the steps of determining whether said transition extent deadline has passed; repeating steps (a) through (c) (*i.e., if the hand-off proceed message was not received and a time out was taken, the processing returns to step 1000 to receive more signals*) (C12: L42-45).

13. As to claim 6, Lumelsky teaches the method of claim 5, wherein in response to said transitional extent deadline not having passed, stopping output and sending a trigger message to said destination server module (C11: L17-29).

14. As to claim 7, Lumelsky teaches the method of claim 6, further comprising the step of waiting for a response message from said destination server module (*i.e., the main/primary server waiting for an acceptance or denial of service for the hand-off request from the target server*); and in response to an error indicative response message, selecting an alternative destination server module (*i.e., in case of a denial of service for the hand-off request from the target server, the process returns to step 990 to select an alternative server*) (C10: L55-63 and C11: L60-67).

15. As to claim 8, Lumelsky teaches the method of claim 3, wherein in response to a modified acceptance message, said method performs the steps of:

selecting a new transition extent in the case of said modified acceptance being appropriate (*i.e., facilitating the negotiation of a common start point*); and selecting an alternative destination server module if said modified acceptance is inappropriate (C14: L17-49).

16. As to claim 9, Lumelsky teaches the method of claim 4, wherein said alternate extent is selected to cause a repetition in content preparation (*i.e., facilitating the negotiation of a common start point could cause a repetition in content preparation*).

17. As to claims 10-11, Lumelsky teaches the method of claim 1, wherein said transitional extent is entered at an extent boundary (*i.e., the market insertion unit 406*

prepares and formats the segmentation markers 408, 410, 414 and inserts them among the frames 418 of the original stream 416) and including an asserted discontinuity flag (i.e., an End Marker Flag) (Figs. 6-7 and C8: L29-59).

18. As to claims 12-14, Lumelsky teaches the method of claim 1, wherein said transitional extent is determined with respect to a packet offset parameter comprising an asserted discontinuity flag (*i.e., an End Marker Flag*) in a header portion of said transitional offset packet (Fig. 7 and C8: L60-64).

19. Claims 15-16 are corresponding receiving method claims of migrating method claims 1-8; therefore, they are rejected under the same rationale.

20. Claims 17-19 are corresponding apparatus claims of method claims 1-8; therefore, they are rejected under the same rationale.

21. Further references of interest are cited on Form PTO-892, which is an attachment to this office action.


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22. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (703) 305-8190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

Quang N. Nguyen
Examiner

~~Paul Kang~~
~~Primary Examiner~~